IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8622 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT
and
Hon'ble MR.JUSTICE K.M.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

VISHNU CHEMICALS

Versus

GUJARAT POLLUTION CONTROL BOARD

Appearance:

MR MIHIR H JOSHI for Petitioners

MR HARESH J TRIVEDI for Respondent No. 1

CORAM : MR.JUSTICE J.N.BHATT
and
MR.JUSTICE K.M.MEHTA

Date of decision: 17/10/2000

ORAL JUDGEMENT

(Per : MR.JUSTICE K.M.MEHTA)

The petitioner has filed this present petition under Article 226 of the Constitution of India praying for a writ of mandamus directing the respondent Gujarat Pollution Control Board to consider and grant the application for consent under the Water (Prevention & Control of Pollution) Act, 1974, submitted by the petitioner on 16.7.2000. The petitioner further prayed that the respondent may consider their application without taking into consideration the directions issued by this High Court on 21.10.1999 in Special Civil Application No. 4473 of 1997 as the same did not apply in their case.

2. The facts giving rise to this petition are as under:

2.1 The first petitioner is a registered partnership firm and the second petitioner is a partner thereof. On 24.9.1993 the respondent issued no objection certificate to the petitioner to set up a factory for manufacturing Acid Dyes in the designated chemical zone of the estate. The petitioner set up its plant thereafter on a total investment of Rs. 12 lakhs. The respondent issued direction on 20.6.2000 to the petitioner to stop manufacturing activities in view of the directions of the Hon'ble Court dated 21.10.1999 in Special Civil Application No. 4473 of 1997. Thereafter, the petitioner applied for consent on 16.7.2000 under the Water (Prevention & Control of Pollution) Act, 1974.

2.2 The respondent Board also issued communication dated 12.7.2000 to the petitioner and informed about the notice of entry and inspection which the Board took place at the petitioner's factory.

3. The matter reached hearing before us today. Shri Mihir Joshi, learned advocate appearing for the petitioners, submitted that no objection certificate for setting up the petitioner's Unit has been granted by the respondent Board on 24.9.1993. Pursuant to which the Unit had been set up and there is no dispute about this fact. He has further submitted that in view of the orders of the Court dated 12.7.2000 in Special Civil Application No. 5862 of 1997 relied on by the petitioner the directions of this Court in Special Civil Application No. 4473 of 1997 dated 21.10.1999 will not, therefore, be applicable to the petitioner.

4. Mr. Trivedi, learned advocate for the respondent Board, has stated that the Board has filed affidavit in reply dated 29.8.2000 in this behalf. We have heard both the learned advocates for the petitioner and the

respondent. However, the matter can be disposed of by giving the following directions to the respondent without finally adjudicating the matter at length.

(i) The respondent Board is directed to consider application dated 16.7.2000 moved by the petitioners for grant of consent under the Water (Prevention and Control of Pollution) Act, 1974 in accordance with law. However, the application of the petitioners shall not be rejected only on the basis of the directions issued in Special Civil Application No. 4473 of 1997.

(ii) It is further directed that in view of what is stated above the order dated 20.6.2000 regarding closure of the petitioner Unit is quashed and set aside. In so far as the order dated 14.6.2000 is concerned, the petitioner will be at liberty to apply for change of product from Diclone to Acid Dyes and also to apply for suspension of directions of closure issued by the Board vide order dated 14.6.2000.

If the petitioner makes such application to the Board within two weeks, the Board shall consider the said application in accordance with law. The Board shall dispose of the application as expeditiously as possible preferably within seven days from the date of receipt of the application without influencing the directions issued by this Court dated 21.10.1999 in Special Civil Application No. 4473 of 1997.

With the above directions, the Special Civil Application stands disposed of with no order as to costs.

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